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PAYMENT OF CERTAIN MONEYS ADVANCED BY MARY-
LAND AND VIRGINIA.

FEBRUARY 23, 1909.—Ordered to be printed.

Mr. MILLER, from the Committee on Claims, submitted the following

ADVERSE REPORT.

[To accompany S. 5252.]

The Committee on Claims, having had under consideration Senate bill 5252, for the payment of certain moneys advanced by Maryland and Virginia to the United States, submit the following report:

The committee recommend that the bill be adversely reported, and as this is a matter of interest to the people of two States, Maryland and Virginia, the committee think it proper that it should furnish the House with a complete statement of the facts in the case so as to justify the House in approving the report of the committee.

This claim is based upon the action taken by the States of Maryland and Virginia prior to the establishment of the seat of Government at its present location. It is shown by an act of the general assembly of Virginia, passed December 3, 1789 (13 Henning, 33), that the establishment of a "situation for the seat of the General Government, central and convenient to the citizens of the United States at large, having due regard to population, extent of territory, and a free navigation to the Atlantic Ocean through the Chesapeake Bay, as well as ready communication with our fellow-citizens on the western frontier," engaged the attention of the said general assembly, and on the 10th of December that general assembly passed the following:

Resolved by the general assembly of Virginia, That a copy of the foregoing act of the third of December, seventeen hundred and eighty-nine, be transmitted to the general assembly of Maryland without delay, and that it be proposed to the said assembly to unite with this legislature in an application to Congress that in case Congress shall deem it expedient to establish the permanent seat of government of the United States on the banks of the Potomac so as to include the cession of either State, or a part of the cession of both States, this assembly will pass an act for advancing a sum of money, not exceeding one hundred and twenty thousand dollars, to the use of the General Government, to be applied in such manner as Congress shall direct, toward erecting public buildings, the said assembly of Maryland on their part advancing a sum not less than two-fifths of the sum advanced by this State for the like purpose.

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The resolution of the general assembly of Virginia, of the date December 10, 1789, was not acted upon by the general assembly of Maryland until November, 1790, when the following action was taken:

Whereas by a resolution of the general assembly of Virginia, passed on the 10th day of December, 1789, it was proposed to the general assembly of Maryland that the general assembly of Virginia will pass an act for advancing a sum of money, not less than one hundred and twenty thousand dollars, to the use of the General Government, and to be applied in such manner as Congress shall direct, toward erecting public buildings, the assembly of Maryland on their part advancing a sum not less than three-fifths of the sum advanced by the said general assembly of Virginia; which resolution came so late to the last general assembly of Maryland that it could not be acted upon, and was therefore referred to this present session; and

Whereas this general assembly doth highly approve of the object of said resolution, and is desirous of doing everything required on the part of Maryland for carrying the same into effect; on a second reading of said resolution,

Resolved, That this house doth accede to the proposition contained in said resolution of the assembly of Virginia, and will advance to the President of the United States, for the purposes mentioned in said resolution, the sum of seventy-two thousand dollars, payable to his order in three equal yearly payments.

That preamble and resolution from the general assembly of Maryland was communicated to the general assembly of Virginia, and on the 24th of December, 1790, the following act was passed:

Whereas the general assembly of Maryland have acceded to a proposition of the general assembly of this Commonwealth contained in their resolution of the tenth day of December, seventeen hundred and eighty-nine, concerning an advance of money to the General Government to be applied toward erecting public buildings at the permanent seat of the Government of the United States, should the Congress deem it expedient to fix it on the bank of the Potomac; and whereas Congress has passed an act for establishing the said seat of Government on the Potomac:

Be it enacted by the general assembly, That one hundred and twenty thousand dollars shall be advanced by this Commonwealth to the General Government, payable in three equal yearly payments, and to be applied toward erecting public buildings at the permanent seat of the Government of the United States on the bank of the Potomac; and the auditor of public accounts is hereby directed to issue his warrants on the treasurer to the amount of one hundred and twenty thousand dollars, payable in the manner hereinbefore directed, to the order of the President of the United States. (See 13 Henning, 125.)

If this were all there was to be considered in connection with the location of the capital it might be inferred that the States of Maryland and Virginia intended the amounts of money respectively furnished by them, to wit, \$72,000 and \$120,000, to be a loan to the Government of the United States for the purpose described in the acts of their respective assemblies; but in order that the proper meaning of the language in said acts might be presented to the House the committee have thoroughly investigated all of the conditions existing at the time said action was taken, and present herewith as fully as possible the events of that period.

Maryland, by an act of its general assembly passed December 23, 1788, directed its representatives in the House of Representatives of the Congress of the United States to cede to the Congress of the United States any district in said State, not exceeding 10 miles square, which the Congress might fix upon and accept for the site of government; and Virginia by an act of its general assembly of date December 3, 1789, ceded a like tract of any lesser quantity of Virginia territory for the same purpose.

AN ACT For establishing the temporary and permanent seat of the Government of the United States.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That a district of territory, not exceeding ten miles

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square, to be located as hereafter directed on the river Potomac, at some place between the mouths of the Eastern Branch and the Conococheague, be, and the same is hereby, accepted for the permanent seat of the Government of the United States: *Provided nevertheless*, That the operation of the laws of the State within such district shall not be affected by this acceptance, until the time fixed for the removal of the Government thereto, and until Congress shall otherwise by law provide.

SEC. 2. *And be it further enacted*, That the President of the United States be authorized to appoint, and by supplying vacancies happening from refusals to act or other causes, to keep in appointment as long as may be necessary three commissioners, who, or any two of whom, shall, under the direction of the President, survey, and by proper metes and bounds define and limit a district of territory, under the limitations above mentioned; and the district so defined, limited, and located shall be deemed the district accepted by this act for the permanent seat of the Government of the United States.

SEC. 3. *And be it (further) enacted*, That the said commissioners, or any two of them, shall have power to purchase or accept such quantity of land on the eastern side of the said river, within the said district, as the President shall deem proper for the use of the United States, and, according to such plans as the President shall approve, the said commissioners, or any two of them, shall, prior to the first Monday in December in the year one thousand eight hundred, provide suitable buildings for the accommodation of Congress and of the President and for the public offices of the Government of the United States.

SEC. 4. *And be it (further) enacted*, That for defraying the expense of such purchases and buildings the President of the United States be authorized and requested to accept grants of money.

SEC. 5. *And be it (further) enacted*, That prior to the first Monday in December next all offices attached to the seat of the Government of the United States shall be removed to and until the said first Monday in December in the year one thousand eight hundred shall remain at the city of Philadelphia, in the State of Pennsylvania, at which place the session of Congress next ensuing the present shall be held.

SEC. 6. *And be it (further) enacted*, That on the said first Monday in December, in the year one thousand eight hundred, the seat of the Government of the United States shall, by virtue of this act, be transferred to the district and place aforesaid. And all offices attached to the said seat of Government shall accordingly be removed thereto by their respective holders, and shall, after the said day, cease to be exercised elsewhere; and that the necessary expense of such removal shall be defrayed out of the duties on imposts and tonnage, of which a sufficient sum is hereby appropriated.

Approved July 16, 1790. (1 Stats., 130.)

AN ACT To cede to Congress a district of ten miles square in this State [Maryland] for the seat of the Government of the United States. (Approved December 23 1788.)

Be it enacted by the general assembly of Maryland, That the representatives of this State in the House of Representatives of the Congress of the United States, appointed to assemble at New York on the first Wednesday of March next, be, and they are hereby, authorized and required, on behalf of this State, to cede to the Congress of the United States any district in this State not exceeding ten miles square, which the Congress may fix upon and accept for the seat of Government of the United States.

AN ACT For the cession of ten miles square or any lesser quantity of territory within this State [Virginia] to the United States in Congress assembled for the permanent seat of the General Government. (Approved December 3, 1789.)

1. Whereas the equal and common benefits resulting from the administration of the General Government will be best diffused and its operations become more prompt and certain by establishing such a situation for the seat of said Government as will be most central and convenient to the citizens of the United States at large, having regard as well to population, extent of territory, and free navigation to the Atlantic Ocean through the Chesapeake Bay, as to the most direct and ready communication with our fellow-citizens in the Western frontiers; and whereas it appears to this assembly that a situation combining all the considerations and advantages before recited may be had on the banks of the river Potomac, above tide water, in a country rich and fertile in soil, healthy and salubrious in climate, and abounding in all the necessaries and conveniences of life, where, in a location of 10 miles square, if the wisdom of Congress shall so direct, the States of Pennsylvania, Maryland, and Virginia may participate in such location:

2. *Be it therefore enacted by the general assembly*, That a tract of country not exceeding ten miles square, or any lesser quantity, to be located within the limits of this State, and in any part thereof as Congress may by law direct, shall be, and the same

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is, forever ceded and relinquished to the Congress and Government of the United States, in full and absolute right and exclusive jurisdiction, as well of soil as of persons residing or to reside thereon, pursuant to the tenor and effect of the eighth section of the first article of the Constitution of the Government of the United States.

3. *Provided*, That nothing herein contained shall be herein construed to vest in the United States any right of property in the soil, or to affect the rights of individuals therein, otherwise than the same shall or may be transferred by such individuals to the United States.

4. *And provided also*, That the jurisdiction of the laws of this Commonwealth over the persons and property of individuals residing within the limits of the cession aforesaid shall not cease or determine until Congress, having accepted the said cession, shall by law provide for the government thereof, under their jurisdiction, in the manner provided by the article of the Constitution before recited.

AN ACT Concerning the advance of money to the Government of the United States for public buildings.

Whereas the general assembly of Maryland has acceded to a proposition of the general government of this Commonwealth, contained in their resolution of the tenth day of December, seventeen hundred and eighty-nine, concerning an advance of money to the General Government to be applied toward the erection of public buildings at the permanent seat of the Government of the United States, should Congress deem it expedient to fix it on the banks of the Patowmack; and whereas Congress have passed an act for establishing the said seat of government on the Patowmack:

Be it enacted by the general assembly [of Virginia], That one hundred and twenty thousand dollars shall be advanced by this Commonwealth to the General Government, payable in three equal yearly payments, and to be applied toward erecting public buildings at the permanent seat of government of the United States on the banks of the Patowmack, and the auditor of public accounts is hereby directed to issue his warrants on the treasurer to the amount of one hundred and twenty thousand dollars, payable in the manner hereinbefore directed, to the order of the President of the United States.

Passed December 27, 1790.

[SEAL.] George Washington, President of the United States, to all who shall see these presents, greeting:

Know ye that reposing special trust and confidence in the integrity skill and diligence of Thos. Johnson and Daniel Carroll, of Maryland, and David Stuart, of Virginia, I do, in pursuance of the powers vested in me by the act entitled "An Act for establishing the temporary and permanent seat of the Government of the United States" approved July 16, 1790 hereby appoint them, the said Thomas Johnson, Daniel Carroll, and David Stuart, commissioners for surveying the district of territory accepted by the said act for the permanent seat of the Government of the United States, and for performing such other offices as by law are directed, with full authority for them, or any two of them, to proceed therein according to law, and to have and to hold the said office, with all the powers, privileges and authorities to the same of right appertaining each of them, during the pleasure of the President of the United States for the time being.

In testimony whereof I have caused these letters to be made patent and the seal of the United States thereto affixed.

Given under my hand at the city of Philadelphia, the twenty-second day of January, in the year of our Lord one thousand seven hundred and ninety-one and of the Independence of the United States the fifteenth.

GEORGE WASHINGTON.

By the President:
THOMAS JEFFERSON.

AN ACT To amend "An act for establishing the temporary and permanent seat of the Government of the United States."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress as enabled, That so much of the act entitled "An act for establishing the temporary and permanent seat of the Government of the United States" as requires that the whole of the district of territory, not exceeding ten miles square, to be located on the river Potomac, for the permanent seat of the Government of the United States, shall be located above the mouth of the Eastern Branch, be and is hereby repealed, and that it shall be lawful for the President to make any part of the territory below the said limit, and above the mouth of Hunting Creek, a part of the said district, so as to include a convenient part of the Eastern Branch, and

of the lands lying on the lower side thereof, and also the town of Alexandria, and the territory so to be included shall form a part of the district not exceeding ten miles square, for the permanent seat of the Government of the United States, in like manner and to all intents and purposes as if the same had been within the purview of the above recited act: *Provided*, That nothing herein contained shall authorize the erection of the public buildings otherwise than on the Maryland side of the river Potomac, as required by the aforesaid act.

Approved March 3, 1791. (1 Stats., 214.)

Congress first convened at Philadelphia, September 5, 1774, and afterwards held sessions in the following places: Philadelphia, Lancaster, Baltimore, New York City, Yorktown, Princeton, York, Trenton, and Annapolis, and at the time of the location of the capital the following places were trying to secure the same: Philadelphia, Baltimore, Lancaster, York, Princeton, Annapolis, Williamsburg, Trenton, New York City, Williamsport, Germantown, Carlisle, Harrisburg, Reading, Georgetown, and the present site. And the following places entered into competition, by bids and otherwise, for the location of the capital. We find the following language taken from the Congressional Proceedings of June 4, 1783:

Be it resolved, That copies of the act of the legislature of Maryland, relative to the cession of the city of Annapolis to Congress for their permanent residence; and also copies of the act of the legislature of New York, relative to the cession of the town of Kingston for the same purpose, together with the papers which accompanied both acts, be transmitted to the executives of the respective States, and that they be informed by the President that Congress have assigned the first Monday in October next for taking the said offers into consideration.

Maryland and New York were the first to enter the arena. Later, however, both Maryland and Virginia offered 10 square miles for capital purposes, and offered to advance and did advance, the former \$72,000 and the latter \$120,000.

On the 7th of April, 1788, New York appropriated its public buildings to the use of the new Congress. Philadelphia did likewise for that city. Baltimore offered a large tract of land and raised £30,000 in money, which was offered as an inducement to secure the capital at Baltimore. On Tuesday, September 8, 1789, a petition was presented by the inhabitants of Georgetown in the State of Maryland, offering to put themselves and their fortunes under the exclusive jurisdiction of Congress in case that town should be selected as the permanent seat of the Government of the United States.

A district 10 miles square, including the borough of Wilmington, in the State of Delaware, was offered, and when this offer was under consideration in Congress on September 17, 1789, the following was provided:

That no cession be accepted until acts should be passed by the States of Maryland and Pennsylvania to open a water communication between the bays of Chesapeake and Delaware.

On September 26, 1789, a petition was presented by the people of Germantown asking for the location of the capital at that place, and offering a district of 10 miles square. On August 22, 1789, a memorial of John Cox and others, of the States of New York and Pennsylvania, was presented to Congress, asking for the seat of government to be established on the banks of the Delaware, and offering a cession of a tract of land 10 miles square, including the borough of Lancaster, and also at the same time nominated Wrights Ferry, on the Susquehanna,

Yorktown, west of the Susquehanna, Carlisle, west of the Susquehanna, Harrisburg, west of the Susquehanna, Reading, on the Schuylkill, and Germantown, in the neighborhood of Philadelphia, as different places in Pennsylvania which had been proposed for the permanent seat of government of the United States; and on September 21, 1789, Mr. Morris introduced the resolution of the general assembly of the State of Pennsylvania of March 5, 1789, making offer to Congress of the use of any or all of the public buildings in Philadelphia in case Congress should at any time incline to make choice of that city as a capital.

The permanent seat of the Government was established by the act of July 16, 1790 (1 Stat., 30), and under the fourth section of the act the President was "authorized and requested to accept grants of money."

On January 8, 1796, President Washington transmitted to the Congress a memorial of the commissioners of the city of Washington on the subject of the public buildings under their direction, and stating that he had accepted the grants of money and of lands stated in the memorial. The memorial contains the following:

That the State of Virginia has paid one hundred and twenty thousand dollars, which had been previously offered by an act of the legislature, on condition that Congress would establish the permanent seat of Government on the banks of the Potomac, to be applied, under the direction of the President of the United States, toward erecting the necessary buildings for the Federal Government; and that the State of Maryland hath paid seventy-two thousand dollars for the same purpose. (American State Papers, vol. 1, p. 133.)

Also on pages 243-246 of the same volume will be found a report of a committee of the House of Representatives, Fifth Congress, second session, containing an account of receipts and expenditures by the commissioners of the city of Washington from the time of their appointment to the 18th of May, 1796, in which the following entries appear:

Donation by the State of Virginia, \$120,000.

Donation by the State of Maryland, \$72,000.

We here quote from Spofford's History :

The establishment of the national capital of the United States involves so many particulars of historical interest that no apology seems necessary for devoting to it the larger portion of this paper. In doing this it will be my aim to touch with the greatest brevity on those portions of the history which have been fully brought out in the various publications on the subject, devoting the more attention to other individuals.

The Continental Congress, during the progress of the Revolutionary struggle, was never long fixed in any one location. Its sessions were convened at eight different places in four different States, viz. Philadelphia, Baltimore, Lancaster, York, Princeton, Annapolis, Trenton, and New York City.

The bill then (September 22, 1789) went to the Senate, where it was discussed three days, but as the Senate sat with closed doors no records of the debates in that body were preserved prior to December, 1799. Here it was moved to strike out the words "in the State of Pennsylvania" from the bill, so that the place selected might be on the Maryland bank of the Susquehanna, if thought proper. This was lost—yeas 8, noes 10. A motion to substitute the Potomac for the Susquehanna was lost, vote not given. It was then moved to locate the permanent capital in a district 10 miles square at Germantown, Pa., on the Delaware, including such part of the Northern Liberties of Philadelphia as were not excepted by act of cession of that State. This was lost by a tie vote—9 to 9, but Vice-President Adams voting yeas settled the question in the affirmative. In this vote the Northern and Eastern States were solid for Germantown, except Maclay, of Pennsylvania, who voted against it, while the Southern States were solid against it, except the two Senators from Delaware. A proviso was adopted requiring Pennsylvania to pay \$100,000 toward the erection of the public buildings at Germantown, and the bill passed September 26—yeas 10, noes 7.

At the next meeting of Congress, January 4, 1790, still at New York, several months elapsed before the question of the seat of government was reopened.

Very engrossing business connected with the revenue, the funding of the public debt, etc., occupied the attention of both Houses. On the 31st of May an attempt was made in the House to settle the question where the Congress should hold its next session. Philadelphia was proposed as the proper place, as a considerable majority had last session decided for Germantown as the seat of government. Mr. Smith, of Maryland, moved to meet in Baltimore, as more central; its commerce was great, its inhabitants had raised a subscription of between £20,000 and £50,000 to erect suitable accommodations for the Members, and the legislature had offered to cede to Congress 10 miles square of territory.

North Carolina came into the Union with her five congressional votes just in time to take part in the settlement of a permanent seat of government and to decide the question in favor of the Potomac. We have seen that at the first session, in 1789, there was a very decided majority against any site so southerly; that Germantown had afterwards been agreed to by both Houses, though by very small majorities; that the Susquehanna had been carried as the site by a heavy majority in the House; that in the earlier stages of the second session, in 1790, Congress was too closely absorbed with questions of revenue and public debt to consider the subject of the capital city, and that finally, after long and sometimes acrimonious debate, a site on the Potomac was accepted by a majority of two votes in the Senate and three votes in the House. Those votes, moreover, could not have been obtained had North Carolina not come into the Union in the meanwhile or had Pennsylvania sided with the northern vote as against the southern location.

Mr. Jefferson has recorded in his *Annals* a remarkable piece of private history regarding the final adoption of the Potomac site for the national capital. According to this statement, the session of 1790 was marked by an obstinate struggle over Hamilton's favorite scheme of the assumption of the state debts, amounting to \$20,000,000. This was at first defeated in the House; Hamilton was anxious and excited; he urged Jefferson to aid in securing its recommendation, saying that the Eastern or creditor States were dissatisfied, and threatened secession and dissolution if their claims were not considered. Says Mr. Jefferson:

"I proposed to him to dine with me the next day, and I would invite another friend or two and bring them into conference together, and I thought it impossible that reasonable men, consulting together coolly, could fail by some mutual sacrifices of opinion, to form a compromise which was to save the Union. The discussion took place. It was finally agreed that whatever importance had been attached to the rejection of this proposition, the preservation of the Union and of concord among the States was more important, and that therefore it would be better that the vote of rejection should be rescinded, to effect which some Members should change their votes. But it was observed that this pill would be peculiarly bitter to the Southern States, and that some concomitant measure should be adopted to sweeten it a little to them.

"There had before been propositions to fix the seat of government either at Philadelphia or at Georgetown on the Potomac; and it was thought by giving it to Philadelphia for two years and to Georgetown permanently afterwards this might, as an anodyne, calm in some degree the ferment which might be excited by the other measure alone. So two of the Potomac Members (White and Lee, but White with a revulsion of stomach almost convulsive) agreed to change their votes, and Hamilton undertook to carry the other point. In doing this the influence he had established over the eastern Members, with the agency of Robert Morris with those of the Middle States, effected his side of the engagement; and so the assumption was passed, and twenty millions of stock divided among favored States and thrown in as a pabulum to the stockjobbing herd."

So far Mr. Jefferson's statement has been generally accepted as a part of the history of the times.

It is a noteworthy fact that this act of Congress, adopted after so long and serious a division of opinion, fixed absolutely no definite place for the site of the capital city. It gave the President of the United States the sole power to select any site on the river Potomac, between the mouth of the Eastern Branch (or Aracostia) and the mouth of the Conococheague; in other words, within a distance of at least 105 miles (following the river windings) from the present site of Washington to where the Conococheague joins the Potomac at Williamsport, Washington County, about 7 miles from Hagerstown, Md. Here was a wide latitude of choice indeed to be confided to one man. It was in the power of Washington, under the provisions of this act, to have founded the national capital at Harpers Ferry, 50 miles west of Baltimore, instead of at a place 40 miles south of it. He might even have located it, at his discretion, at the mouth of the Conococheague itself, 100 miles farther up the river than the present

capital; and there is a contemporaneous letter of Oliver Wolcott which says: "In 1800 we are to go to the Indian place with the long name on the Potomac."

Washington, however, with that consummate judgment which distinguished his career, fixed upon just the one spot in the entire range of the territory described by Congress, which commanded the threefold advantages of unfailing tide-water navigation, convenient access from Baltimore and the other great cities northward, and the superb natural sites for public buildings and for the varied wants of a populous city. The "magnificent distances," once the theme of so much cheap ridicule, are found not a whit too liberal, now that the capital has grown from a struggling village into a well-built and well-paved emporium for a population which, though not placing it in the first rank of cities, gives it at least an enviable place in the second rank.

Both Virginia and Maryland took the most active and zealous interest in the establishment of the National Capital on their borders. With co-terminous territory for nearly 300 miles, separated by the great natural boundary of the Potomac, these prosperous Commonwealths had every motive to unite in whatever should bring population and wealth to develop their great natural advantages, and to improve the navigation of the river. With a liberality equal to the occasion, Virginia voted \$120,000 in money as a free gift to the United States Government to aid in erecting the public buildings, and Maryland appropriated \$72,000 to the same object, a sum which was relatively a very large one in that day of small things. This not proving to be sufficient, and the Congress at Philadelphia not coming forward with appropriations, as had been expected, Washington was induced to make a personal appeal to the State of Maryland for a loan. He told Governor Stone that the commissioners had attempted in vain to borrow in Europe to carry on the public buildings, and he knew of no place in the United States where application could be made with greater propriety than to the legislature of Maryland, "a State where the most anxious solicitude is presumed to be felt for the growth and prosperity of that city which is intended for the permanent seat of government for America." The appropriation was granted, and the legislature accompanied the act authorizing the loan of \$100,000 with a testimonial of their high regard for the President, while they were careful to require the personal security of the commissioners (so low was then the credit of the United States) in guarantee of the repayment of the loan.

The loan of \$100,000 above referred to was of date January 24, 1797, and on January 27, 1798, Maryland again loaned \$100,000 and required the same kind of security. Both of these loans were to draw interest at the rate of 6 per cent and the interest and principal were afterwards paid, the final payment being made on January 7, 1808.

The committee calls the attention of the House to the fact that on September 25, 1789, the Senate of the United States amended a bill then before it so as to read as follows:

And be it further enacted, That the President of the United States be authorized to appoint three commissioners, who are, under his direction, to locate a district, not exceeding ten square miles, in the said counties, and including therein the said Northern Liberties and town of Germantown, and to purchase such quantity of land within the same as may be necessary, and to accept grants of land for the use of the United States, and to erect thereon, within four years, suitable buildings for the accommodation of the Congress and of the officers of the United States—

and further amended the bill by providing—

That no powers herein vested in the President of the United States shall be carried into effect until the State of Pennsylvania, or individual citizens of the same, shall give satisfactory security to the Secretary of the Treasury to furnish and pay, as the same may be necessary, one hundred thousand dollars, to be employed in erecting the said buildings.

The bill as amended passed the Senate on September 26, 1789, and was sent to the House of Representatives and afterwards the House of Representatives amended it by providing that Congress might hold their next session at Philadelphia, and the bill was sent to the Senate for their concurrence.

From this time on the representatives from the States of Maryland and Virginia, in the Senate and House of Representatives of the

United States, were found doing everything in their power to defeat final action looking to the establishment of the seat of government at Germantown, and finally some of these representatives changed their votes on what was known at that time as the assumption act, providing that the General Government of the United States should assume the indebtedness of the several States. Eventually, through the successful efforts of Jefferson, Hamilton, Madison, and Washington, the assumption act was passed and the capital of the nation established where it is now located.

The committee have called attention to the successful efforts of the distinguished gentlemen heretofore named for the reason, as appears from the public records of the time, that there can be no question but what this matter was successfully carried through and the compromise effected by the gentlemen named. We call particular attention to the statements of Mr. Maclay, of Pennsylvania, taken from his private journal, in which he says: "I am fully convinced that Pennsylvania could do no better. It is in fact the interest of the President of the United States that pushes the Potomac, who by means of Jefferson, Madison, Carroll, and others urges the business, and if we had not closed with these terms a bargain would have been made for the temporary residence in New York."

He again says: "The President of the United States has, in my opinion, had great influence in this business." This was in reference to the compromise on the assumption act and the location of the capital.

There is not, so far as the committee has been able to discover, any public record of any kind which shows that the advances made by the States of Maryland and Virginia were regarded as loans. It is urged by those who favor this measure that the fact that John Marshall, afterwards Chief Justice of the United States, because he moved to strike out the word "grant" in the title of the act and insert the word "advance," shows that it was intended that this was to be a loan in place of a donation or gift. The committee is satisfied that the reason Mr. Marshall made this motion was to have the title of the act conform to the language in the body of said act, where the term "advance" appeared and not "grant." Mr. Marshall at the time knew that the President of the United States, or the commissioners themselves, had no authority whatever to borrow any money, but knew that Congress had already provided, however, that the commissioners had authority to accept grants of money; and if it was the intention of the States of Maryland and Virginia that this money was to be regarded as a loan is it not strange that they did not require some evidence of indebtedness on the part of the Government of the United States to either of said States, and that they did not require any security or any interest, while Maryland, a few years later, when that State did loan \$200,000 to the Government of the United States, demanded gilt-edged security and a rate of interest at 6 per cent? In all public documents, so far as the committee have been able to discover, this matter is referred to as a grant, gift, or donation, and nowhere is it referred to as a loan.

General Washington calls it a "grant" when drawing his order on Virginia, and a "gift" when drawing on Maryland. The law of Maryland was the same as Virginia. Jefferson calls it at the time a "gift" in one letter and a "donation" in another. The commissioners and others, when communicating with the authorities of Virginia,

called it a "donation." It is designated as a "donation" on their books. Mr. Randolph, then Secretary of State, called it a "donation."

We call special attention to the language used by Mr. Meigs in a report from the committee.

Mr. Meigs, in a report from the Committee on the Expenditures upon the Public Buildings, made to the House of Representatives March 21, 1820, remarks that—

It appears that the valuation of the public lots and actual amount of sales, added to the donations from the States of Virginia and Maryland, exceed the national expenditure upon public buildings by nearly \$400,000. (See American State Papers, vol. 11, Miscellaneous.)

and again call attention to the statements heretofore referred to that at the time the commissioners of the city of Washington had entered in the books of said city the following entries:

Donation by the State of Virginia.....	\$120,000
Donation by the State of Maryland.....	72,000

We also call attention to the entry which appears on page 1 of Journal A and of date October 17, 1791, "that (it appears that) the State of Virginia subscribed the sum of \$120,000 presumably toward the erection of the public buildings in the city of Washington," and it appears from subsequent entries that this entire amount subscribed was paid, as one William Deakins, jr., who was the treasurer of the federal commissioners appointed by President Washington to lay out the city and erect the public buildings, has charged himself with sundry payments made by the State of Virginia from time to time on account of its donation. Then, in that account there appear the following statements:

"To the State of Virginia received of Mr. Hopkins, part of its donation, \$8,585," of date March 2, 1795; and again in the same account, under date of March 21, 1796, there appears, "To State of Virginia received of John Hopkins the balance of the Virginia donation, \$4,312.06," and the total of all of the items in this account of William Deakins, jr., debtor to sundry accounts with the State of Virginia, the total amount is \$120,000.

Your committee herewith adopts as a part of its report a portion of the report made by the Committee on Claims of the United States Senate when this matter was before that body on January 30, 1852.

New York and Pennsylvania had gratuitously furnished "elegant and convenient accommodations" for the use of the Government during the eleven years that it was located within their respective limits, as appears from the resolutions passed by Congress on its removal. They had offered to continue to do so. New Jersey offered accommodations at Trenton. The citizens of Baltimore, through their representative, proposed to furnish money for the erection of the necessary buildings in that town for the Federal Government. One hundred thousand dollars had been required to be paid by Pennsylvania, or its citizens, as a condition of the location of the Government in that State.

This was the state of things when the propositions of Virginia and Maryland were brought forward, to advance \$192,000, "to be applied toward erecting public buildings at the permanent seat of the Government of the United States, on the banks of the Potomac."

On the 31st of May, 1790, a bill was introduced into the Senate to determine "the permanent seat of Congress and the Government of

the United States." On the 28th of June, this bill being under consideration, memorials were read from citizens of Baltimore and inhabitants of Georgetown for the selection of those places, and a motion being made to insert "on the river Potomac at some place between the mouths of the Eastern Branch and the Connogochegue be, and the same is hereby accepted for the permanent seat of the Government of the United States." It passed in the affirmative.

The bill was further amended as follows:

And be it further enacted, That for defraying the expense of such purchases and buildings the President of the United States be authorized and requested to accept grants of money, and cause to be borrowed a sum not exceeding one hundred thousand dollars at an interest not exceeding six per cent.

In this form the bill was sent to a select committee consisting of Messrs. Butler, of South Carolina; Johnson, of Connecticut; Henry, of Maryland; Lee, of Virginia; and Dalton, of Massachusetts. In their report on this part of the bill is the following proposition:

Your committee further recommend that such sums of money as may be offered by the States for the carrying this bill into effect may be accepted of; then the bill will read thus: "and to accept grants of money or land."

The bill was accordingly amended by striking out that part which authorized the borrowing of money for the erection of the public buildings—yeas 19, nays 7. A motion was subsequently made to restore the clause "and cause to be borrowed a sum not exceeding one hundred thousand dollars at an interest not exceeding six per cent," and it was negatived without a division.

The "act for establishing the temporary and permanent seat of the Government of the United States" passed and was approved by the President on the 16th of July, 1790, fixing the "permanent seat" on the banks of the Potomac, in accordance with the propositions of the legislatures of the States of Maryland and Virginia—and the "temporary seat" at Philadelphia.

In the act, as passed, no authority was granted to borrow money or contract for or accept a loan on any terms, either with or without interest. On the contrary, such authority was expressly denied. It is a general rule that all are bound to take notice of the provisions of a public law. By the fourth section of the act the President was "authorized and requested to accept grants of money." And to this acceptance of grants his authority was clearly limited. It is not to be presumed that the authorities of Virginia did not know or understand the provisions of this law.

Did President Washington transcend these limits, as prescribed by Congress, when he received from the States of Virginia and Maryland the several sums of money appropriated by their respective legislatures "to be applied toward erecting public buildings at the permanent seat of the Government of the United States on the bank of the Potomac?"

On the 22d of January, 1791, as appears by the manuscript records in the office of the Commissioner of Public Buildings, President Washington appointed Thomas Johnson and Daniel Carroll, of Maryland, and David Stuart, of Virginia, commissioners under the act of 16th of July, 1790, and on the 24th day of the same month he issued his proclamation fixing the "location of one part of the said district of ten miles square" on the Virginia side of the Potomac, and the "other part" on the Maryland side. The commissioners met on the 12th of April, 1791, and proceeded to execute the duties of their trust. Their

first object was to locate the city, acquire the title to the soil, and fix the sites for the principal public edifices. And having accomplished these preliminaries they applied to the President for the necessary funds to carry on their operations. As many of the public lots as could be properly disposed of were directed to be sold, and the proceeds to be placed in the Treasury, and application was made to the President for orders on the States of Maryland and Virginia for the payment of the installments pledged by those States. In a letter of President Washington, addressed to the commissioners, from Richmond, dated 13th of April, 1791, he says:

Agreeable to the assurance given to Mr. Carroll, I applied, immediately upon my arrival in this city, to Governor Randolph for \$2,000 for federal purposes under your direction; although by the law of this State the payments of the \$120,000 are to be made by installments the governor is well disposed to advance the money at earlier periods.

P. S.—Since writing the foregoing I have again conversed with Governor Randolph, and have drawn upon him, payable to your order, for \$40,000, being the first installment.

Governor Randolph also wrote to the commissioners acknowledging the receipt of the order and saying that he would meet it as fast as the state of the treasury would allow, and that \$1,000 would be paid immediately.

The commissioners also addressed a communication to the governor of Maryland asking for the payment of "money granted" by that State.

On the 6th of June, 1792, the commissioners wrote to the governor of Virginia as follows: "There remains behind a part of the Virginia donation, which was receivable for the past year, and urging the necessity of immediate payment."

The following, in reference to the second installment of Virginia, appears upon the records of proceedings of the board of commissioners of the federal city, viz:

Received sundry letters, and among them one from the Secretary of State, inclosing the following order:

"PHILADELPHIA, November 13, 1792.

"Sir: Be pleased to pay to Messrs. Johnson, Stuart, and Carroll, commissioners of the federal buildings on the Potomac, or to their order, or to the order of any two of them, the second installment of the moneys granted by the State of Virginia toward the said buildings.

"GEORGE WASHINGTON.

"THE TREASURER OF VIRGINIA."

On the President's order the commissioners made the following indorsement, and delivered it to their treasurer, to wit:

"Pay the contents to Col. William Deakins, or order.

"DAVID STUART,
"DANIEL CARROLL,
"Commissioners."

This order was forwarded to the commissioners inclosed in a letter from Thomas Jefferson, then Secretary of State, in which he says, "I have the honor to inclose you the President's order on the treasurer of Virginia for the second installment of the money given by that State (see manuscript letter of Mr. Jefferson, dated the 13th of November,

1792, on file in the office of Commissioner of Public Buildings). A similar record appears in reference to the payments of Maryland, viz (records of proceedings of the board of commissioners, pp. 70 and 170):

PHILADELPHIA, *December 27, 1791.*

SIR: Be pleased to pay to Thomas Johnson, David Stuart, and Daniel Carroll, esqs. Commissioners of the Federal District, or to their order, or to the order of any two of them, \$24,000, given by the assembly of Maryland toward defraying the expenses of the public buildings within said district.

GEORGE WASHINGTON.

To THOMAS HOWARD, Esq.,

Treasurer of the Western Shore of Maryland.

This order was indorsed by the commissioners to William Deakins, jr., their treasurer, and upon it the money appears to have been paid. This would seem to settle very clearly the understanding of General Washington, Mr. Jefferson, and of the executive officers of Maryland and Virginia of the nature of the "advance" made by those States. A similar order for "the third installment of the sum given by the assembly of Maryland," etc., was given by General Washington, dated March 2, 1793.

On the 7th of February, 1793, the commissioners, in a communication to Mr. Jefferson, say: "We have as yet received only \$10,000 on the President's second draft on Virginia. We have to-day written to the executive of Virginia requesting a payment of the balance."

They also addressed urgent memorials to the governor and to the assembly of Virginia earnestly and repeatedly soliciting the payment of installments of the "donation of Virginia" and the "Virginia donation toward erecting the public buildings." In the records and books, and in the correspondence of the commissioners, whether with the President, the governor of Virginia, the general assembly of that State, or with other persons, whenever this fund is alluded to, it is designated as the "donation," "grant," or "gift" of Virginia.

Mr. Edmund Randolph, Secretary of State, in a letter to the commissioners dated August 21, 1794, says, "I have this day written to the governor and treasurer of Virginia, stimulating them to the payment of the arrears of the donation. Perhaps you had better add a representation of the necessity of the federal city for such a supply."

The foregoing history of the early legislation upon the subject clearly proves, in the judgment of the committee, that Virginia intended the said sum of \$120,000 as a gift or donation, and not alone, because—

1. No time or manner of repayment is provided for.
2. The President of the United States had no authority to borrow money or contract for a loan. He was only authorized to accept grants of money.
3. The offer of Virginia of the said sum was conditional, provided the seat of government was located near or within her territorial limits; and it was made after Pennsylvania and Baltimore had offered donations or gifts, and when there was a strong probability that Germantown would be agreed upon as a site. There is no reason to infer that Virginia would have advanced that or any other sum if the seat of government had remained at Philadelphia or had been located at Germantown.

In view of the foregoing history, facts, and considerations, the committee conclude and decide that if the United States could be sued the claimants could not recover, either in a court of law or equity.

The question then arises whether, considering the sum advanced to be a "gift" or "donation," it should be repaid. As such its repayment is not asked, and therefore the committee do not undertake to decide the question, but refer it to the judgment of the Senate.

The committee, however, are unanimously of opinion that if, looking to all the circumstances of the advance made by Virginia, and viewing it as a "donation" or "grant," the Senate should determine that it is just and proper to repay the same, then the sum of \$72,000 advanced by Maryland should also be repaid, and a reasonable compensation made to the States of New York and Pennsylvania for the use of their public buildings by Congress and the public officers prior to the removal of the seat of government to Washington.

The records show that Congress and the public officers occupied the public buildings fitted up by and belonging to the State or city of New York, for a period of about one year and six months, and the public buildings in Philadelphia, then belonging to the State of Pennsylvania, from the 6th of December, 1790, to about the close of the year 1800, a period of about ten years. It is believed that \$20,000 would be a reasonable compensation to be offered to New York, and \$100,000 to the State of Pennsylvania. It does not appear that either State ever received anything more than thanks.

At that time the State of Virginia was not making any claim in her own name for reimbursement, as the State had transferred its interest in the matter to the Orange and Alexandria Railroad Company, and said railroad company in its own name was asking to be awarded \$120,000 for the use and benefit of said railroad company.

The committee also call the attention of the House to the fact that the State of Virginia is not now claiming that the United States Government owes her any amount whatever. The claim that is before Congress at this time is presented on behalf of the Mount Vernon Association, and they ask this donation at the hands of the Government for the erection of a public highway between Washington City and Mount Vernon.

Your committee is clearly of the opinion that there is no legal or equitable liability on the part of the Government of the United States in favor of either the State of Maryland or Virginia, and from the evidence presented in this case the committee are unanimously of the opinion that neither Maryland nor Virginia at the time that these moneys were advanced expected that this act would create any liability on the part of the Government of the United States to return any of the moneys to either of the States, and that their sole object in offering to advance the moneys heretofore referred to and to grant lands was for the purpose of securing the location of the capital within their territory, which they believed would be of great benefit to their people, and that in making the offer which they did they were simply trying to meet the competition of other States which were trying to secure the capital for the benefit of their people.

The committee regard it as remarkable that these States should now claim that this was a loan in view of the fact that no one was seeking

to borrow money from them at the time, to wit, in 1790, and that at that time the records of the department show that the State of Virginia was indebted to the United States in the sum of more than \$200,000; and although since that time there have been settlements at various times between the General Government and these two States, yet at no time from 1790 until now has either of these States in any of the settlements that have ever been made claimed that they were entitled to credit in said settlements by reason of the advances of money made for public building purposes in Washington.

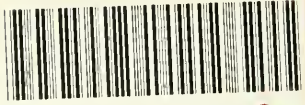


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